

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

ORIGINAL

In re

Amendment of Part 74 of the
Commission's Rules With
Regard to the Instructional
Television Fixed Service

)
) MM Docket No. 93-24
)
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)

To: The Commission

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

REPLY COMMENTS OF
NETWORK FOR INSTRUCTIONAL TV, INC.;
NORTH AMERICAN CATHOLIC EDUCATIONAL PROGRAMMING
FOUNDATION, INC. AND SHEKINAH NETWORK

In response to the Commission's Order and Further Notice of Proposed Rulemaking in MM Docket No. 93-24, FCC 94-148, released July 6, 1994 (the "Notice"), Network for Instructional TV, Inc., North American Catholic Educational Programming Foundation, Inc. and Shekinah Network ("the Nationals") hereby submit their Reply Comments in the above-captioned proceeding.

The commenters in this proceeding support many of the proposals advanced by the FCC to streamline processing of ITFS applications. Of paramount concern to the Nationals however, are those commenters which support the imposition of a cap on national ITFS filers.

Certain parties advocate the imposition of a cap on national filers only.¹ One party even went so far as to propose an outright preference for existing (presumably local) licensees seeking to add

¹ See e.g. Comments of Educational Parties at p. 14.

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additional channels where they already hold licenses.² This would be grossly unfair to the Nationals. National distance learning educators provide a critically needed service to students and faculty all across the country. Often, these services are available locally only because the resources of the national filers made it possible.

During the filing freeze, the Nationals have been working diligently to expand their services to new areas. Collectively, the Nationals have entered into agreements to apply for ITFS stations in over one hundred areas once the freeze is lifted. These efforts would be undermined and service delayed indefinitely if the cap is imposed.³ In addition, future window filings by the Nationals would also be limited.

The FCC rules give local filers preferences in the comparative selection process, obviating the need for caps or further preferences. See 47 C.F.R. §74.913. To impose a national-only filing cap or to establish other preferences designed to further slant the playing field in favor of locals, would be punitive and serve no valid public interest.

The Nationals strongly disagree with CT Wireless' assertions that non-local ITFS applicants tend to be less familiar with the local programming needs of the community, have no community ties

² See Pioneer Telephone Cooperative at p. 2.

³ The Nationals support the position of the Wireless Cable Association International ("WCAI") which opposes the imposition of a cap on major modification applications. See Comments of WCAI at p. 23.

and tend to be affiliated with frequency speculators.⁴ The Nationals are already required to seek letters from locally accredited educational institutions which must make a firm commitment to utilize the Nationals proposed service and serve on a local Curriculum Committee. See 47 C.F.R. §74.932. This helps ensure that the Nationals are meeting local needs.

The Nationals believe it is appropriate to require some written documentation from every receive site.⁵ Letters establishing the eligibility of the applicant and other letters used to establish that students at a receive site should be counted in tie-breaker situations, should continue to be governed by the existing rules and policies. Other receive sites, such as libraries and business and industry locations, should merely be required to indicate a general willingness to participate as a receive site in order to be entitled to receive interference protection.

Of course, every applicant should be required to demonstrate that its receive sites are technically capable of being served, taking into consideration interference and terrain obstructions.

⁴ See Comments of Central Texas Wireless TV, Inc. ("CT Wireless") at p. 5.

⁵ See Joint Comments of the Coalition of Wireless Cable Operators (the "Coalition") at pp. 17-18, who propose requiring different levels of detail in receive site letters, depending on how those letters would be used. For example, the Coalition argues that letters used to establish the eligibility of an applicant for the ITFS service would contain greater specificity than those intended merely to establish that a receive site exists and should be protected. The Nationals agree. *Id.*

Adoption of these suggestions will not change current FCC practices but merely refine what is required of an applicant and improve the efficient processing of applications by requiring Commission staff to only study bona fide receive sites.

The Nationals provide a critically important service to local educators. The imposition of a filing cap or the adoption of any additional preferences for locals would serve no valid public interest. Instead, it would undermine the continuing ability of the Nationals to meet local educational needs that would otherwise go unfilled.

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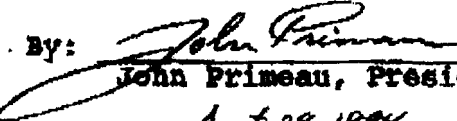
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CERTIFICATE OF SERVICE

I, Victor Onyeoziri do hereby certify that the foregoing "Reply Comments" was served on the below listed parties by First Class U.S. Mail, this 28th day of September, 1994:

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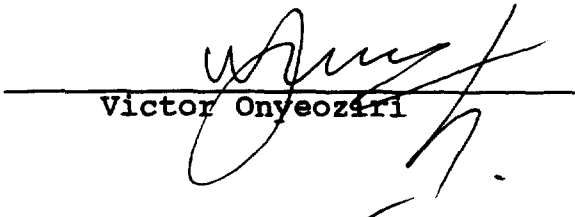
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